

COMMISSION ON STATE MANDATES

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March 14, 2008

Mr. Allan P. Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Final Staff Analysis, Proposed Parameters and Guidelines, and Hearing Date
Fire Safety Inspections of Care Facilities, 01-TC-16
Health and Safety Code sections 1531.2, 1569.149, 1596.809, 13144.5, and 13235
Statutes 1989, chapter 993
City of San José, Claimant

Dear Mr. Burdick:

The final staff analysis and proposed parameters and guidelines for this program are enclosed for your review.

Hearing

This test claim is set for hearing on **Friday, March 28, 2008** at 9:30 a.m. in Room 447, State Capitol, Sacramento, California. This matter is proposed for the consent calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact Kerry Ortman at (916) 323-3562 with any questions.

Sincerely,

A handwritten signature in cursive script, reading "Paula Higashi".

PAULA HIGASHI
Executive Director

Enc. Final Staff Analysis and proposed Statement of Decision

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ITEM 5
FINAL STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES,
AS MODIFIED BY STAFF

Health and Safety Code Section 1323, Subdivision (a)

Statutes 1989, Chapter 993

Fire Safety Inspections of Care Facilities
01-TC-16

City of San Jose, Claimant

EXECUTIVE SUMMARY

This test claim statute requires a local fire department, or the State Fire Marshal, upon receipt of a request from a prospective licensee, to conduct a preinspection of the facility prior to the fire clearance approval. At the time of the preinspection, the applicable fire enforcing agency will provide consultation and interpretation of the fire safety regulations that are to be enforced in order to obtain the clearances necessary to obtain a license.

On March 29, 2006, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim, finding that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, for the following activities:

1. the preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. the consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

Inspection activities relating to the final fire clearance approval are not reimbursable.

Discussion

Staff reviewed the proposed parameters and guidelines and the comments received by claimant, the State Controller's Office, the Department of Finance and the State Fire Marshal and made the following substantive changes.

II. Eligible Claimants

The claimant proposed that fire districts be included as eligible claimants. Health and Safety Code 13235 imposes this program on local fire enforcing agencies or the State Fire Marshal, whichever has primary jurisdiction.¹ Local fire enforcing agencies include districts performing fire protection services, formed pursuant to Health and Safety Code section 13800 et seq. Therefore, special districts performing fire protection services can generally be considered eligible claimants for this program.

However, not all special districts are subject to article XIII B, section 6. For a special district in California to be an eligible claimant under this test claim, that district must be subject to the tax and spend limitations of article XIII A and article XIII B, and *not* subject to the appropriations limit exclusions in article XIII B, section 9, subdivision (c).

Therefore, staff modified this section to clarify that eligible claimants include fire districts or other districts performing fire protection services at the local level, formed pursuant to Health and Safety Code sections 13800 et seq., that are subject to the tax and spend limitations of articles XIII A and XIII B.

IV. Reimbursable Activities

A. One-Time Activities

The claimant proposed that for each new fire inspector assigned to the inspection of care facilities, a maximum of eight hours of training be allowed. The State Fire Marshal clarified that it offers four hours of training to cover preinspection activities.

However, Department of Finance and the State Fire Marshal oppose reimbursement for this training because it is not required by the test claim statute.

Staff finds that training new employees for the *new* process of preinspections of care facilities and of interpreting fire safety regulations is necessary to carry out the mandated program, and is therefore, reimbursable. Based on the State Fire Marshal's comments, staff modified the proposed activity to clarify that a maximum of four hours of training per employee is allowable. Staff also clarified that this activity is limited to one time per employee.

B. Ongoing Activities

The claimant proposed that language be added to the activity of preinspection of the facilities to clarify that reimbursement is allowed for all preinspections until the final inspection at which fire clearance is granted. At the test claim hearing, the claimant provided sworn testimony that in some cases, more than one preinspection occurs before a facility is cleared in final inspection. The Commission also acknowledged at the test claim hearing that it may take more than one preinspection to grant final fire clearance, and while multiple preinspections is not specifically allowed in the test claim statute, this issue should be addressed at the parameters and guidelines phase. Based on the claimant's sworn testimony, staff finds that allowing for multiple

¹ Health and Safety Code section 13145 provides that the chief of any city or county fire department or *district* providing fire protection services, and their authorized representatives, shall enforce in their respective areas fire and panic safety standards adopted by the State Fire Marshal.

preinspections is necessary to carry out the mandated program. Therefore, staff added this language to the proposed parameters and guidelines.

DOF recommends the deletion of the activity of file maintenance because the test claim statute did not specifically require file maintenance.

Staff finds that maintenance of files relating solely to preinspection activities is necessary to carry out the mandated program because clear records of communication between fire inspectors and the care facilities are needed should any compliance issues arise. Therefore, staff included this activity in the proposed parameters and guidelines.

VII. Offsetting Revenues and Other Reimbursements

The claimant recommends that the language in this section be amended to state that in the event this fee authority is either increased or decreased by the Legislature, such adjustments shall control and will not necessitate an amendment to the parameters and guidelines, unless the legislative amendments also amend the reimbursable activities.

Staff added the language requested by claimant to clarify that parameters and guidelines will not have to be amended each time the Legislature increases or decreases the authorized fees.

Department of Finance requested that this language be amended to clarify that any other inspection fees collected must be offset. Staff did not add this language because it goes beyond the findings in the Statement of Decision and is repetitive of the "boilerplate" language.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, beginning on page 13.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Claimant

City of San Jose

Chronology

06/03/02	City of San Jose files test claim with the Commission
07/19/02	Commission on State Mandates (Commission) staff deems test claim complete
08/19/02	The Department of Finance submits comments on test claim with the Commission
09/17/02	City of San Jose files reply to Department of Finance comments
12/12/05	Commission staff requests information from the State Fire Marshal
01/03/06	State Fire Marshal responds to staff's request
01/20/06	Commission staff issues draft staff analysis
02/16/06	Sacramento Metropolitan Fire District submits comments on the draft staff analysis
03/13/06	Commission staff issues final staff analysis and proposed Statement of Decision
03/29/06	Commission adopts Statement of Decision
03/30/06	Commission staff issues draft parameters and guidelines
04/28/06	Claimant submits comments on draft parameters and guidelines proposing clarification of activities
06/08/06	State Controller's Office (SCO) submits comments
10/26/06	Commission staff conducts prehearing. Claimant indicates their intent to develop a reasonable reimbursement methodology (RRM) for this program
11/15/06	Commission staff issues letter confirming claimant's intent to develop RRM and requests that the Commission staff be updated on a monthly basis on the status of the RRM
11/21/06	Claimant proposes further technical amendments to proposed parameters and guidelines
03/23/07	The Department of Finance (DOF) submits comments
06/04/07	Commission staff schedules hearing for September 27, 2007
06/28/07	Commission staff requests additional information from State Fire Marshal
07/11/07	State Fire Marshal responds to staff request for additional information
8/31/07	Pursuant to telephone conversation with claimant, who requests that hearing on proposed parameters and guidelines be rescheduled to allow claimant more time to develop RRM, Commission staff reschedules proposed parameters and guidelines to December 4, 2007 hearing
10/19/07	Pursuant to telephone conversation with claimant, who requests that hearing on proposed parameters and guidelines be rescheduled to allow claimant more time

to develop RRM and discuss with other counties, Commission staff reschedules proposed parameters and guidelines to March 28, 2008 hearing.

- 10/30-31/07 Counties conduct meeting to discuss development of RRM for several mandated programs, including *Fire Safety Inspections of Care Facilities*.
- 02/07/08 Commission staff issues draft staff analysis
- 03/05/08 State Fire Marshal submits comments on draft staff analysis
- 03/06/08 Department of Finance comments via email that they concur with staff analysis and proposed parameters and guidelines
- 03/11/08 Claimant filed comments on draft staff analysis
- 03/14/08 Commission staff issues final staff analysis

Summary of the Mandate

Health and Safety Code section 13235, subdivision (a), requires local fire departments to perform fire safety inspections of all community care facilities, residential care facilities for the elderly, and child daycare facilities. Upon receipt of a request from a prospective licensee, the local fire department, or State Fire Marshal, whichever has primary jurisdiction, is required to conduct a preinspection of the facility prior to the fire clearance approval. At the time of the preinspection, the applicable fire enforcing agency will provide consultation and interpretation of the fire safety regulations that are to be enforced in order to obtain the clearances necessary to obtain a license.

On March 29, 2006, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim.² The Commission found that Health and Safety Code section 13235, subdivision (a), constitutes a new program or higher level of service and imposes a state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission approved this test claim for the following reimbursable activities relating to the preinspection of the facility:

1. the preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. the consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

Inspection activities relating to the final fire clearance approval are not reimbursable.

Discussion

Staff reviewed the proposed parameters and guidelines and the comments received. On April 28, 2006, claimant submitted comments on the draft parameters and guidelines which are

² Exhibit A.

discussed below.³ On June 8, 2006, the State Controller's Office submitted comments requesting several nonsubstantive technical changes to Section IV. Reimbursable Activities.⁴ Staff made these technical changes. On November 21, 2006, claimant proposed further technical amendments that are discussed below.⁵ On March 28, 2007, the Department of Finance submitted comments on the draft parameters and guidelines.⁶ On March 5, 2008, the SFM also submitted comments.⁷ Both comments are addressed below under Section IV. Reimbursable Activities, and Section VII. Offsetting Revenues and Other Reimbursements. On February 7, 2008, staff issued a draft staff analysis and proposed parameters and guidelines for public comment.⁸ On March 6, 2008, DOF sent email concurring with the draft staff analysis. On March 11, 2008, claimant submitted comments concurring with the changes as proposed by commission staff and supporting the draft staff analysis.⁹

Other nonsubstantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

Substantive changes were made to the following sections of the proposed parameters and guidelines.

II. Eligible Claimants

The claimant proposed that fire districts be included as eligible claimants. Health and Safety Code 13235 imposes this program on local fire enforcing agencies or the State Fire Marshal, whichever has primary jurisdiction.¹⁰ Local fire enforcing agencies include districts performing fire protection services, formed pursuant to Health and Safety Code section 13800 et seq. Therefore, special districts performing fire protection services can generally be considered eligible claimants for this program.

However, not all special districts are subject to article XIII B, section 6. Article XIII B was adopted less than 18 months after the addition of article XIII A to the state Constitution, and was billed as the next logical step to Proposition 13. While article XIII A was generally aimed at controlling ad valorem property taxes and the imposition of new special taxes, article XIII B was aimed at placing certain limitations on the growth of appropriations at both the state and local government level.

³ Exhibit B.

⁴ Exhibit C.

⁵ Exhibit D.

⁶ Exhibit E.

⁷ Exhibit F.

⁸ Exhibit G.

⁹ Exhibit H.

¹⁰ Health and Safety Code section 13145 provides that the chief of any city or county fire department or *district* providing fire protection services, and their authorized representatives, shall enforce in their respective areas fire and panic safety standards adopted by the State Fire Marshal.

Article XIII B does not limit the ability to expend government funds collected from all sources. Rather, the appropriations limit is based on "appropriations subject to limitation," which consists primarily of the authorization to expend during a fiscal year the proceeds of taxes. As to local governments, limits are placed only on the authorization to expend the proceeds of taxes levied by that entity, in addition to the proceeds of state subventions; no limitation is placed on the expenditure of those revenues that do not constitute proceeds of taxes.¹¹ Thus, since taxing and spending limitations are placed only on the proceeds of taxes, "[n]o state duty of subvention is triggered where the local agency is not required [by the test claim statutes] to expend the proceeds of taxes."¹² Section 9 of Article XIII B sets forth specific circumstances wherein the costs in question *are not* "appropriations subject to limitation," and therefore subvention is not required. One such exclusion to the limitation is found in subdivision (c), which applies to special districts:

Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 ½ cents per \$100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

For a special district in California to be an eligible claimant under this test claim, that district must be subject to the tax and spend limitations of article XIII A and article XIII B, and *not* subject to the appropriations limit exclusions in article XIII B, section 9, subdivision (c).

Therefore, staff modified this section to clarify that eligible claimants include fire districts or other districts performing fire protection services at the local level, formed pursuant to Health and Safety Code sections 13800 et seq., that are subject to the tax and spend limitations of articles XIII A and XIII B.

III. Period of Reimbursement

Estimated Claims

Prior to February 16, 2008, claimants were authorized to file estimated reimbursement claims for the current fiscal year. Claimants were required to file a reimbursement claim showing actual costs for that fiscal year by the following February 15. On February 16, 2008, the Governor enacted ABX3 8 (Stats. 2008, ch. 6) in special session as part of an overall budget reduction package for the 2007-2008 fiscal year. ABX3 8 became effective immediately. The bill repealed the authority for claimants to file and be paid for estimated reimbursement claims. Therefore, staff removed any references to estimated reimbursement claims from this section of the proposed parameters and guidelines.

¹¹ *County of Placer v. Corin* (1980) 113 Cal.App.3d 443.

¹² *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.

IV. Reimbursable Activities

A. One-Time Activities

The claimant proposed that for each new fire inspector assigned to the inspection of care facilities, a maximum of eight hours of training be allowed. In comments, submitted via telephone July 11, 2007, the State Fire Marshal states that it offers a two and a half day statutes and regulations training course to local and state governments throughout California on a quarterly basis, and a portion of the class covers the interpretation of the regulations pertaining to community care facilities, residential care facilities and child daycare facilities. The State Fire Marshal indicates that only four hours of their training is needed to cover all of the preinspection activities.

Department of Finance and the State Fire Marshal oppose reimbursement for this training because there is no requirement to attend the training provided by the State Fire Marshal and training for conducting preinspections is not different than training for conducting final inspections. The State Fire Marshal also states that "the local enforcing agency could request the OFSM to assume jurisdiction for these community care facilities provided that the OSFM has the resources to fulfill the request. There are some locations where these facilities are located on state property and would be the responsibility of the State Fire Marshal." Therefore, SFM states "locals do have the ability to 'opt out' of the preinspections by requesting the SFM to assume these preinspection services."

Staff finds that training new employees for the *new* process of preinspections of care facilities and of interpreting fire safety regulations is necessary to carry out the mandated program, and is therefore, reimbursable.¹³ Based on the State Fire Marshal's comments, staff modified the proposed activity as follows:

1. Training for each new fire inspector assigned to the preinspection of care facilities, pursuant to Health and Safety Codes 13235, subdivision (a). A maximum of four hours of training is allowable per employee.

Staff also clarified that this activity is limited to one time per employee.

B. Ongoing Activities

The Commission found the following activity to be reimbursable:

The preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities.

The claimant proposed that language be added to the activity of preinspection of the facilities to clarify that reimbursement is allowed for all preinspections until the final inspection at which fire clearance is granted. At the test claim hearing, the claimant provided sworn testimony that in some cases, more than one preinspection occurs before a facility is cleared in final inspection.¹⁴

¹³ Section 1183.1, subdivision (a)(4), of the Commission's regulations authorizes the Commission to include the "most reasonable methods of complying with the mandate" in the parameters and guidelines. The "most reasonable methods of complying with the mandate" are "those methods not specified in statute or executive order that are necessary to carry out the mandated program."

¹⁴ Exhibit I, official transcript of proceedings, page 23.

The Commission also acknowledged, at the test claim hearing, that it may take more than one preinspection to grant final fire clearance and while multiple preinspections is not specifically allowed in the test claim statute this issue should be addressed at the parameters and guidelines phase.¹⁵ Based on claimant's sworn testimony, staff finds that allowing for multiple preinspections is necessary to carry out the mandated program.¹⁶ Therefore, staff added this language to the proposed parameters and guidelines.

The claimant also proposed the following two activities be included in the proposed parameters and guidelines:

1. Time for the fire inspector to travel to the prospective facility in order to conduct the fire inspection.

Staff agrees that time for fire inspectors to travel to facilities to conduct inspections is reimbursable. However, travel reimbursements are found under Section V. Claim Preparation and Submission, subsection 5, Travel, which clarifies how claimants claim for travel costs. Therefore, staff did not include this separate activity under Section IV. B., Ongoing Activities.

2. Administrative and clerical time for file maintenance.

DOF recommends the deletion of the activity of file maintenance because "Chapter 993, Statutes of 1989, did not specifically require file maintenance. Since the California Code of Regulations only requires the care facility to secure and maintain an approved fire clearance, file maintenance costs incurred by a local agency could be recovered through indirect costs."

Staff finds that maintenance of files relating solely to preinspection activities is necessary to carry out the mandated program because clear records of communication between fire inspectors and the care facilities are needed should any compliance issues arise. Therefore, staff included this activity in the proposed parameters and guidelines.

Time Study Language

The claimant proposed that time study language be added to the proposed parameters and guidelines. Staff finds that using time studies may be appropriate for this program. Thus, staff included the following language under section IV:

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

V. Claim Preparation and Submission

Reasonable Reimbursement Methodology

Government Code section 17557 allows parameters and guidelines to include a reasonable reimbursement methodology to reimburse claimants for costs mandated by the state.

Government Code section 17518.5 states that a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state. At a prehearing conducted on October 25, 2006, the claimant indicated its intent to develop a RRM proposal. On November 15, 2006, Commission staff

¹⁵ Exhibit I, page 32.

¹⁶ California Code of Regulations, Title 2, section 1183.1, subdivision(a)(4).

issued a letter confirming the claimant's intent. Commission staff also requested that it be updated on a monthly basis on the status of the RRM; however, to date, the claimant has not submitted a RRM nor updated the Commission.

VII. Offsetting Revenues and Other Reimbursements

This section includes language requiring claimants to offset their reimbursement claims by statutory fees collected for the preinspections.

In its comments, the claimant recommends that Section VII. Offsetting Revenues and Other Reimbursements be amended to state that in the event this fee authority is either increased or decreased by the Legislature, such adjustments shall control and will not necessitate an amendment to the parameters and guidelines, unless the legislative amendments also amend the reimbursable activities.

Staff added the language requested by claimant to clarify that parameters and guidelines will not have to be amended each time the Legislature increases or decreases the authorized fees.

Department of Finance requested that this language be amended to clarify that any other inspection fees collected must be offset. Staff did not add this language. The language requested by Finance goes beyond the findings in the Statement of Decision. Staff also finds that the language is not necessary because the standard "boilerplate" language for this section already includes general language about offsetting any fees collected.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, beginning on page 13.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

**DRAFT PARAMETERS AND GUIDELINES,
AS MODIFIED BY STAFF**

Health and Safety Code Section 13235, Subdivision (a)

Statutes 1989, Chapter 993

Fire Safety Inspections of Care Facilities
01-TC-16

City of San Jose, Claimant

I. SUMMARY OF THE MANDATE

Health and Safety Code section 13235, subdivision (a), requires local fire departments to perform fire safety inspections of all community care facilities, residential care facilities for the elderly, and child daycare facilities. Upon receipt of a request from a prospective licensee, the local fire department, or State Fire Marshal, whichever has primary jurisdiction, is required to conduct a preinspection of the facility prior to the fire clearance approval. At the time of the preinspection, the applicable fire enforcing agency will provide consultation and interpretation of the fire safety regulations that are to be enforced in order to obtain the clearances necessary to obtain a license.

On March 29, 2006, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Fire Safety Inspections of Care Facilities* test claim. The Commission found that Health and Safety Code section 13235, subdivision (a), constitutes a new program or higher level of service and imposes a state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission approved this test claim for the following reimbursable activities relating to the preinspection of the facility:

1. the preinspection of community care facilities, residential care facilities for the elderly, and child day care facilities;
2. the consultation and interpretation of applicable fire safety regulations for the prospective facility licensee; and
3. written notice to the prospective facility licensee of the specific fire safety regulations which shall be enforced in order to obtain the final fire clearance approval.

Inspection activities relating to the final fire clearance approval are not reimbursable.

~~The test claim legislation amended the Health and Safety Code regarding fire inspections of specified community care facilities required by the State Fire Marshal. The purpose of the test claim legislation (Stats. 1989, ch. 993) is to ensure that community care facilities, residential care facilities for the elderly, and child day care facilities, during the process of being licensed by the State Department of Social Services, receive in a timely fashion the correct fire clearance information from the local fire enforcing agency or State Fire Marshal.~~

II. ELIGIBLE CLAIMANTS

Any city, county, and city and county, and any fire protection district or other district performing fire protection services at the local level, formed pursuant to Health and Safety Code sections

13800 et seq., that is subject to the tax and spend limitations of articles XIII A and XIII B, and that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (cc), ~~as amended by Statutes 1998, chapter 681,~~ states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The City of San Jose filed the test claim on June 3, 2002. Therefore, costs incurred on or after July 1, 2000, in compliance with Health and Safety Code section 13235, subdivision (a) (Statutes, 1989, chapter, 993), are eligible for reimbursement.

~~3. Actual costs for one fiscal year shall be included in each claim. Estimated costs of the subsequent year may be included on the same claim, if applicable.~~ Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564, subdivision (a).

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5.

Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities related to the preinspection are reimbursable:

A. One-Time Activity (one time per employee)

Training for each new fire inspector assigned to the preinspection of care facilities, pursuant to Health and Safety Code section 13235, subdivision (a). A maximum of four hours of training is allowable per employee.

B. Ongoing Activities

1. Conduct preinspections of community care facilities, residential care facilities for the elderly, and child day care facilities upon receipt of a request from a prospective licensee of such a facility, before the final fire clearance approval. More than one preinspection per facility as deemed necessary by the local fire agency is reimbursable.
2. Provide consultation and interpretation of applicable fire safety regulations for the prospective facility licensee.
3. Providing a written notice to the prospective facility licensee of the specific fire safety regulations that ~~which~~ shall be enforced in order to obtain the final fire clearance approval.
4. Maintain files relating solely to preinspection activities pursuant to Health and Safety Code section 13235, subdivision (a).

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent

on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87

Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting ~~revenues~~ ~~savings~~ the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Pursuant to Health and Safety Code section 13235, subdivision (a), fee recovery for the preinspection activity is limited to: 1) \$0 for facilities which serve six or fewer persons; 2) \$50 for facilities with a capacity to serve seven to 25 persons; and 3) \$100 for facilities with a capacity to serve 26 or more persons. This revenue shall be identified and deducted from total costs claimed. In the event that the Legislature enacts legislation which either increases or decreases the fee authority, such legislation shall control and will not necessitate an amendment to these parameters and guidelines unless the activities to be performed are also amended.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

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Commission on State Mandates

Original List Date: 6/7/2002
Last Updated: 7/19/2006
List Print Date: 03/05/2008
Claim Number: 01-TC-16
Issue: Fire Safety Inspections of Care Facilities

Mailing Information: Final Staff Analysis

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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